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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION

CODE OF FAIR COMPETITION SERIES—CODE No. 7

CODE OF FAIR COMPETITION
FOR THE
DISTILLED SPIRITS RECTIFYING
INDUSTRY

Approved by the President of the United States
December 9, 1933

1. Executive Order
2. Letter of Transmittal (Secretary of Agriculture)
3. Code



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1933



EXECUTIVE ORDER

Whereas the Secretary of Agriculture having submitted for my approval a Code of Fair Competition for the Distilled Spirits Rectifying Industry, and having rendered his report and recommendations and findings thereon;

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby find that:

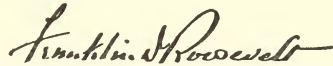
1. Due notice and opportunity for hearings to interested parties have been given pursuant to the provisions of the act and regulations thereunder, upon a code of fair competition presented by the Secretary of Agriculture upon his own motion pursuant to section 3 (d) of the act, and Executive Orders under the act; and,

2. Hearings have been held upon said Code, pursuant to such notice and pursuant to the pertinent provisions of the act and regulations thereunder; and

3. Said code of fair competition constitutes a code of fair competition, as contemplated by the act and complies in all respects with the pertinent provisions of the act, including clause (2) of subsection (a) of section 3 of title I of the act; and

4. It appears, after due consideration, that said code of fair competition will tend to effectuate the policy of Congress as declared in section 1 of title I of the act,

Now, therefore, I, FRANKLIN D. ROOSEVELT, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do hereby approve said Code of Fair Competition for the Distilled Spirits Rectifying Industry.



President of the United States.

THE WHITE HOUSE,
December 9, 1933.

LETTER OF TRANSMITTAL

AGRICULTURAL ADJUSTMENT ADMINISTRATION,
December 8, 1933.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have the honor to submit the following:

1. There is transmitted herewith a Code of Fair Competition for the Distilled Spirits Rectifying Industry, which I recommend for your approval. The Code, because of the emergency requiring its immediate consideration by you, does not contain labor provisions, other than the mandatory labor provisions of Section 7 (a) of the National Industrial Recovery Act. Additional labor provisions covering hours of labor, rates of pay, and other conditions of employment, not yet finally completed for your consideration, will be submitted later by the National Recovery Administrator. There accompanies the Code the report of the Administrator of the Agricultural Adjustment Act, and a true, correct, and complete stenographic report of all the evidence introduced at a public hearing on said Code, held pursuant to Section 3 (d), Title I, of the National Industrial Recovery Act.

2. By virtue of Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345, of October 20, 1933, which, pursuant to Title I of the National Industry Recovery Act of June 16, 1933 (Public, No. 67, 73d Congress), delegated to me, as Secretary of Agriculture, certain of the powers vested in the President of the United States by the aforesaid Act, and after considering the aforesaid Code of Fair Competition and a true, correct, and complete stenographic report of all the evidence introduced at such public hearing, and being fully advised in the premises, I make the following findings:

(1) That the Code was presented by the Secretary of Agriculture upon his own motion pursuant to Section 3 (d) of the Act and Executive Orders under the Act. The Code Authority provided for in the Code will be established pursuant to a plan approved by the Federal Alcohol Control Administration and the approved plan will, in conformity with the Act, provide that the Code Authority shall be truly representative of the Industry.

(2) That the Distilled Spirits Rectifying Industry, covered by such Code, is included within the trades, industries, or subdivisions thereof enumerated in Executive Order No. 6182 of June 26, 1933, as supplemented by Executive Order No. 6207 of July 21, 1933, and Executive Order No. 6345 of October 20, 1933.

(3) That the provisions of the Code establishing standards of fair competition (a) are regulations of interstate and foreign commerce and (b) are reasonable.

(4) That the Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them and will not permit monopolies or monopolistic practices.

(5) That the Code will not prevent an individual from pursuing the vocation of manual labor and selling or trading the products thereof nor prevent anyone from marketing or trading the produce of his farm.

(6) That due notice and opportunity for hearing, in connection with the aforesaid Code, has been afforded interested parties, in accordance with Title 1 of the National Industrial Recovery Act and applicable regulations issued thereunder.

(7) That said Code will tend to effectuate the declared policy of Title 1 of the National Industrial Recovery Act as set forth in Section 1 of said Act in that the terms and provisions of such Code tend: (a) To remove obstructions to the free flow of foreign commerce, which tend to diminish the amount thereof; (b) to provide for the general welfare by promoting the organization of industry for the purposes of cooperative action among trade groups; (c) to eliminate unfair competitive practices; (d) to promote the fullest possible utilization of the present productive capacity of industries; (e) to avoid undue restriction of production (except as may be temporarily required); (f) to increase the consumption of industrial and agricultural products by increasing purchasing power; and (g) otherwise to rehabilitate industry.

(8) That said Code, when approved by the President, will constitute a Code of Fair Competition for the Distilled Spirits Rectifying Industry within the meaning of Section 3 (a) of Title I of the National Industrial Recovery Act.

Respectfully,

H. Wallace

Secretary of Agriculture.

CODE OF FAIR COMPETITION
FOR THE
DISTILLED SPIRITS RECTIFYING INDUSTRY

**Exclusive of Provisions Relating to Hours of Labor, Rates of Pay, and Other
Conditions of Employment**

ARTICLE I—PURPOSES

Whereas, it is the declared policy of Congress as set forth in Section 1 of Title I of the National Industrial Recovery Act:

To remove obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof; and to provide for the general welfare by promoting the organization of industry for the purpose of co-operative action among trade groups; to induce and maintain united action of labor and management under adequate governmental sanctions and supervision, to eliminate unfair competitive practices, to promote the fullest possible utilization of the present productive capacity of industries, to avoid undue restrictions of production (except as may be temporarily required), to increase the consumption of industrial and agricultural products by increasing purchasing power, to reduce and relieve unemployment, to improve standards of labor, and otherwise to rehabilitate industry and to conserve natural resources.

And—

Whereas, Congress has not had opportunity to legislate on liquor control following the repeal of the Eighteenth Amendment, and

Whereas, the Twenty-first Amendment provides in part as follows:

The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

And—

Whereas, it is in the best interests of the public that all industries engaged in the production or distribution of alcoholic beverages shall limit their activities to their reasonable and immediate requirements until such time as Congress may consider appropriate legislation relating to such industries.

Now, therefore, to effectuate the foregoing policies the following provisions are established as a Code of Fair Competition for the distilled spirits rectifying industry (exclusive of provisions relating to hours of labor, rates of pay, and other conditions of employment), and upon approval by the President shall constitute standards of fair competition for such industry and shall be binding upon every member of such industry in the United States; and neither the approval of this Code nor any action taken thereunder by the Federal Alcohol Control Administration, the Code Authority, or by any member of the distilled spirits rectifying industry shall be construed as giving any member of such industry a vested right to continue to participate in the production or distribution of rectified spirits in the United States.

ARTICLE II—DEFINITIONS

SECTION 1. As used in this Code—

(a) The term "President" means the President of the United States.

(b) The term "Act" means Title I of the National Industrial Recovery Act, approved June 16, 1933.

(c) The term "person" means individual, partnership, corporation, association, and any other business unit.

(d) The terms "distilled spirits rectifying industry" and "industry" mean the purifying of distilled spirits, or the mixing, blending, or flavoring of distilled spirits, or the bottling, warehousing, or other handling or distribution of rectified distilled spirits, or the sale or other disposition thereof, by a member of the industry or an affiliate or subsidiary thereof.

(e) The term "distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits for beverage use, including all dilutions and mixtures thereof.

(f) The term "beverage use" means beverage, medicinal, culinary, or any other use except use for industrial purposes.

(g) The term "rectified product" means any distilled spirits which are a product of the industry.

(h) The term "employee" means any person engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

(i) The term "employer" means any person by whom any such employee is compensated or employed.

(j) The term "member of the industry" means any person engaged in the distilled spirits rectifying industry as an employer or on his own behalf.

(k) The term "Administration" means the Federal Alcohol Control Administration.

(l) The term "Director" means the director of the Federal Alcohol Control Administration.

(m) The term "Code Authority" means the industry authority established pursuant to this Code.

(n) The term "United States" includes the several States and Territories, the District of Columbia, and Puerto Rico.

(o) The term "State" includes Territory and the District of Columbia.

(p) The term "books and records" means any books, records, accounts, contracts, documents, memoranda, papers, correspondence, or other written data pertaining to the business of the person in question.

(q) The term "subsidiary" means any person, of or over whom, a member of the industry has either, directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

(r) The term "affiliate" means any person who has, either directly or indirectly, actual or legal control of or over a member of the industry, whether by stock ownership or in any other manner, or a subsidiary thereof.

(s) The term "trade buyer" means any buyer of rectified distilled spirits, except an ultimate consumer.

ARTICLE III—MANDATORY LABOR PROVISIONS

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or other mutual aid or protection.

SEC. 2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or refrain from joining, organizing, or assisting a labor organization of his own choosing.

SEC. 3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

ARTICLE IV—PERMITS

SECTION 1. No person shall engage in the distilled spirits rectifying industry except pursuant to a permit issued by the Administration. The Administration shall grant a permit to any person upon application who (a) has complied with the State and Federal laws pertaining to distilled spirits rectification, and (b) who has fulfilled the requirements of Section 2 of this Article, and (c) who has presented evidence to the Administration regarding his previous experience, financial standing, and trade connections sufficient to prove to the satisfaction of the Administration that such applicant is in fact a potential legal producer of a rectified product which can be absorbed by the probable market demand for such product. Such permit shall remain in effect during the duration of this Code, unless suspended or revoked as hereinafter provided. Such permit shall be conditioned on the observance by the permittee of the provisions of this Code (other than the provisions of Article III) and regulations issued thereunder. Such permit shall not be taken or held to create in any permittee any vested right as to any standard of profits or volume of business; or any right to engage in the manufacture or distribution of any rectified product after the termination of the permit.

SEC. 2. The Administration shall, as a condition precedent to the issuance of a permit, require from the applicant a forfeiture bond in the sum of \$25,000 or less as the Administration may in its discretion deem necessary. This bond shall be conditioned upon compliance with the provisions of this Code (other than the provisions of Article III) and regulations thereunder, in such form and with such surety, terms, and provisions as the Administration may prescribe.

SEC. 3. Any such permit may, after due notice and opportunity for hearing, be suspended or revoked by the Director, with the approval of the Administration, for violation of any term or condition thereof.

SEC. 4. Nothing in this Article shall be construed to limit or modify any procedure or remedy which may be available for the enforcement of the provisions of this Code.

ARTICLE V—UNFAIR METHODS OF COMPETITION

The following practices constitute unfair methods of competition and shall not be engaged in by any member of the industry:

SECTION 1. *False Advertising*.—To publish or disseminate in any manner any false advertisement of any rectified product. An advertisement shall be deemed to be false if it is untrue in any particular, or if directly or by ambiguity, omission, or inference it tends to create a misleading impression.

SEC. 2. *Misbranding*.—To sell or otherwise introduce into commerce any rectified products that are misbranded. Rectified products shall be deemed to be misbranded—

(a) *Food and Drugs Requirements*.—If they are misbranded within the meaning of the Food and Drugs Act.

(b) *Standards of Fill*.—If their container is so made, formed or filled as to mislead the purchaser, or its contents fall below the standard of fill prescribed by regulations of the Administration.

(c) *Standards of Identity*.—If they purport to be or are represented as products for which a definition of identity has been prescribed by regulations of the Administration and they fail to conform to the definition.

(d) *Standards of Quality*.—If they purport to be or are represented as products for which standards of quality have been prescribed by regulations of the Administration, and (1) fail to state on the label, if so required by the regulations, their standard of quality in such terms as the regulations specify, or (2) fall below the standard stated on the label.

(e) *Label Requirements*.—If in package form and they fail to bear a label conforming to such requirements as the Administration may by regulation prescribe.

Regulations for the purpose of this section shall be prescribed by the Administration, but only after due notice and opportunity for hearing to the members of the industry.

SEC. 3. *Commercial Bribery*.—To give or permit to be given money or anything of substantial value for the purpose of influencing persons (a) to purchase rectified products of a particular brand or from a particular person, or (b) to refrain from purchasing from or dealing with particular persons.

SEC. 4. *Shipment or Delivery on Consignment*.—To enter into any agreement except for export, for the shipment or delivery of distilled spirits on consignment.

SEC. 5. *Allowances and Rebates for Advertising and Distribution Service*.—To pay a trade buyer for a special advertising or distributing service, (a) unless in pursuance of a written contract defining the service to be rendered and the payment therefor; and (b) unless such service is rendered and the payment is reasonable and not excessive in amount; and (c) unless such contract is separate and distinct from any sales price and is not designed or used to reduce a sales price; and (d) unless a copy of each such contract is filed with the Code Authority. This section shall not apply to any contract made prior to the effective date of this Code.

SEC. 6. *Guarantees Against Decline*.—To make or give to any purchaser of a rectified product any guarantee or allowance in any form

against or as a result of decline in the seller's price thereof; except pursuant to a contract made prior to the effective date of this Code.

SEC. 7. *Prizes and Premiums.*—To offer any prize, premium, gift, or other similar inducement to either a trade or consumer buyer.

SEC. 8. *Control of Retail Outlets.*—To hold any interest in any license for the sale of rectified products or distilled spirits at retail for consumption on the premises; or directly or indirectly, to participate or engage in the sale of rectified products or distilled spirits at retail for consumption on the premises; or to control, employ, manage, or financially assist in any manner, any person engaged in the retail sale of rectified products or distilled spirits for consumption on the premises; or to hold any interest in any premises on which rectified products or distilled spirits are sold at retail for consumption on the premises, unless the holding of such interest is permitted under regulations of the Administration or a statement thereof has been filed with the Administration and has not been disapproved by it; provided that this section shall not be held to prohibit the granting of the credits ordinarily extended by the industry with respect to the sale of rectified products.

SEC. 9. *Sales to Unauthorized Vendors.*—To sell or otherwise dispose of rectified products or distilled spirits to any person not authorized by license in full force and effect to sell, manufacture, or distribute rectified products or distilled spirits, if such a license is required of such person by State law, or to sell or otherwise dispose of rectified products or distilled spirits to any member of an industry covered by any code under the Act pertaining to alcoholic beverages, if such member is engaged in the business without a permit in full force and effect under such code and such a permit is required by the Code.

SEC. 10. *Violations of State Law.*—To transport or import rectified products or distilled spirits into any State or political subdivision thereof for delivery, sale, or use therein in violation of the law of such State.

SEC. 11. To exact or require, by contract, understanding, or otherwise, that any trade buyer who is engaged in the sale of rectified products at retail for consumption on the premises, handle or sell only the products of a particular member of the industry.

ARTICLE VI—SOURCE OF SUPPLY

SECTION 1. No member of the industry shall acquire distilled spirits or any other alcoholic beverage from any source other than a person who holds in full force and effect a permit issued under the Alcoholic Beverages Code of Fair Competition applicable to such person, if such code requires such a permit.

ARTICLE VII—BOTTLING

SECTION 1. Members of the industry shall sell or dispose of products in bottles only, except in case of sales to rectifiers or blenders or to dispensaries or other agencies operated and maintained by any State or political subdivision thereof, or for export, or for shipments in bond. Nothing in this section shall restrict the sale or other dis-

position of warehouse receipts covering distilled spirits in bond, provided such receipts require the bottling of the distilled spirits prior to or after tax payment and prior to shipment by the warehouseman.

ARTICLE VIII—PRICES AND TERMS OF SALE

SECTION 1. Each member of the industry shall keep posted with the Code Authority, in accordance with regulations prescribed by it and approved by the Administration, and upon request make available to trade and consumer buyers a price list which shall set forth (a) all the brands and types of rectified products offered for sale by such member, (b) the sale price thereof to various classes of trade buyers, and (c) all discounts and other terms of sale of such rectified products.

SEC. 2. The Code Authority shall file with the Administration a copy of each price list so posted. The Code Authority shall, upon request, make available such price lists to trade and consumer buyers.

SEC. 3. No sale or other disposition of distilled spirits shall be made by any member of the industry except in accordance with its prices and terms so posted and in effect.

SEC. 4. No member of the industry shall post or keep posted any price or term which (a) will constitute destructive price cutting, or (b) be so high as to encourage, directly or indirectly, the sale of distilled spirits in violation of law, or (c) be oppressive to the consumer. A posted price or term shall not be held to be in violation of this section unless it is kept posted after it has been declared ineffective by the Code Authority or the Administration, as hereinafter in this Article provided.

SEC. 5. If, after investigation, the Code Authority finds that any price or term posted under this Article is not in conformity with the requirements of Section 4, it shall, with the approval of the Administration, declare such price or term ineffective.

SEC. 6. If the Administration is of the opinion that the prices or terms posted for any class or type of distilled spirits are contrary to the requirements of Section 4, it may report such fact to the Code Authority. If the Code Authority does not within 10 days take action acceptable to the Administration, the Administration may then declare such prices or terms ineffective, if it finds that they are not in conformity with the requirements of Section 4.

SEC. 7. The payment by any member of the industry of allowances or rebates, refunds, concessions, or discounts, whether in the form of money or otherwise, not conforming with the prices and terms of sale, as disclosed in the posted price list, is prohibited.

SEC. 8. The posting or publishing of any false or fictitious price list, or the use of invoices which falsely indicate prices, discounts, or terms of any sale, or the inserting in any invoice of statements which make the invoice a false record, wholly or in part, of the transaction represented on the face thereof, or the withholding from any invoice of statements which properly should be included therein, so that, in the absence of such statements, the invoice does not truly reflect the transaction involved is prohibited.

ARTICLE IX—CONTROL OF PLANT CAPACITY AND PRODUCTION

SECTION 1. If the Administration finds, after due notice and opportunity for hearing, that the present or potential production of rectified products is larger than the probable demand therefor, so as to tend to produce an excessive accumulation of stocks, excessive competition for sales, or other detrimental marketing conditions in the industry, and thereby tends to prevent the effectuation of the declared policy of the Act or the purposes of this Code, the Administration, in consultation with the Code Authority, may limit the production and distribution of rectified products and allocate the production thereof among the members of the industry, and may provide for the orderly distribution of accumulated stocks. If the Administration finds after due notice and opportunity for hearing, that the current supply of any class or type of rectified products, is or is likely to be inadequate to meet the consumptive demands, it may authorize and, in consultation with the Code Authority, allocate additional production.

ARTICLE X—REPORTS

SECTION 1. The members of the industry shall severally, from time to time, upon the request of the Administration (or the National Recovery Administrator in case of information relating to hours of labor, rates of pay, or other conditions of employment) furnish such information, on and in accordance with forms of reports to be supplied, as may be deemed necessary for the purposes of (a) assisting in the furtherance of the powers and duties of the Administration or the National Recovery Administrator with respect to this Code, or (b) enabling the Administration or the National Recovery Administrator to ascertain and determine the extent to which the declared policy of the Act and the purposes of this Code will be effectuated, such reports to be verified under oath.

SEC. 2. The members of the industry shall severally permit, for the same purposes or to enable the Administration or the National Recovery Administrator to verify the information furnished on said forms of reports, all their books and records and the books and records of their affiliates and subsidiaries to be examined by the Administration or the National Recovery Administrator during the usual hours of business.

SEC. 3. Each member of the industry shall severally keep books and records which will clearly reflect all financial transactions of his business and the financial condition thereof and such other matters relating to the business of the member as the Administration may by regulation prescribe, and shall require that his subsidiaries and affiliates keep such records.

SEC. 4. All information furnished the Administration pursuant to this Article shall remain confidential in accordance with the applicable regulations prescribed by the Administration.

ARTICLE XI—CODE AUTHORITY

SECTION 1. There shall be a Code Authority selected by the members of the industry pursuant to a plan submitted by members of

the industry and approved by the Administration. The members of the Code Authority shall be subject to the approval of the Administration and subject to removal in the discretion of the Administration. The powers and duties of the Code Authority shall be as follows:

(a) To administer the provisions of this Code (except as otherwise provided) subject to the approval of the Administration; and to foster and promote the observance of this Code by members of the industry.

(b) To prescribe rules for the performance of its functions subject to the approval of the Administration.

(c) To recommend to the Administration amendments to this Code.

(d) To cooperate with and assist the Administration, as the Administration from time to time may request, in carrying out its functions under this Code.

(e) To make reports to the Administration from time to time on problems relating to the industry affecting the administration of this Code.

(f) To receive and investigate charges of apparent violation of this Code and to report to the Administration its findings of fact on such charges. This paragraph shall not be construed to derogate from or limit the powers of the Administration to investigate apparent violations of this Code and to take such action in the premises as it deems desirable.

SEC. 2. If the members of the industry fail to submit a plan under Section 1 within 30 days after the effective date of this Code, or the plan submitted is not approved by the Administration, then the Administration may establish and provide for the selection of the members of the Code Authority according to a plan prescribed by the Administration.

ARTICLE XII—FEDERAL ALCOHOL CONTROL ADMINISTRATION

SECTION 1. The Administration shall prescribe such regulations as may be provided for in this Code or as may be reasonably necessary to carry out the provisions of this Code, which it is authorized to administer, and may make such interpretations of such provisions and regulations as it deems necessary. Such regulations and interpretations shall have the same force and effect as the provisions of this Code.

SEC. 2. The Administration may investigate any apparent violation of the provisions of this Code and may take such action in the premises as it deems necessary.

ARTICLE XIII—DURATION OF IMMUNITIES

SECTION 1. The benefits, privileges, and immunities conferred by this Code shall cease upon its termination except with respect to acts done prior thereto.

ARTICLE XIV—AGENTS

SECTION 1. The Administration and the National Recovery Administrator may by designation in writing name any person, including any officer or employee of the Government, to act as agent in connection with their respective powers and duties under this Code.

ARTICLE XV—MODIFICATION

SECTION 1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provision of Section 10 (b) of the Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under the Act, and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

ARTICLE XVI—EFFECTIVE DATE

SECTION 1. This Code shall be effective the day following its approval by the President of the United States.



